



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

m.A.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,299	11/23/2001	David L. Reynolds	8080	5366

7590

07/09/2003

Woodling, Krost & Rust (Kenneth L. Mitchell)
9213 Chillicothe Rd.
Kirtland, OH 44094

EXAMINER

SERKE, CATHERINE

ART UNIT	PAPER NUMBER
----------	--------------

3763

DATE MAILED: 07/09/2003

(1)

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,299

Applicant(s)

REYNOLDS, DAVID L.

Examiner

Catherine Serke

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6, 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I and further election of claims 1-10 in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,5,6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilburn (US Pat# 2,860,635).

Wilburn discloses a syringe body (50) with a rimmed end (see figure 1). The device also includes a piston (79), a sleeve (82) and piston support means (76). The support means is integrally formed with the sleeve and includes a support surface (77) located radially inwardly of

Art Unit: 3763

the inner surface of the syringe body side wall and forms a gap (see figures 1, 23 and 25).

Looking at figure 1, the base of the sleeve is flat and has a diameter at least as wide as the syringe itself and therefore is sufficient to permit the syringe to stand upright. The sleeve also has an outwardly projecting flange (see figures 23 and 25) that has height. The sleeve also has an inwardly projecting portion detent (88).

Claims 1-2 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Helixon et al (US Pat# 4,091,812).

~~Wilburn~~ ^{Helixon} discloses a syringe body (12) with a rimmed end (see figure 2). The device also includes a piston (18), a sleeve (32) and piston support means (34). The support means is integrally formed with the sleeve and includes a support surface (48) located radially inwardly of the inner surface of the syringe body side wall and forms a gap (38). Looking at figure 2, the base of the sleeve is flat and has a diameter at least as wide as the syringe itself and therefore is sufficient to permit the syringe to stand upright. The support surface (48) is annular with a central aperture (see figures 2 and 3). The piston is supported above the base end of the sleeve when positioned upright (see figure 2 rotate clockwise). As shown in figure 2 the gap (38) thickness is about the thickness of the syringe body wall which forms an annular recess. The bottom of the sleeve forms a bottom wall (40) of the annular recess. The side of the piston forms a hermetic seal with the inner wall of the syringe body (considered inherent for proper functioning of a syringe for injection).

Art Unit: 3763

Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Poux (US Pat# 2,453,590).

Poux discloses a hypodermic syringe that includes a syringe body (4) with a rimmed end (see figure 6). The device also includes a piston (16), a sleeve (14) and piston support means (23). The support means is integrally formed with the sleeve and includes a support surface (see figure 6) located radially inwardly of the inner surface of the syringe body side wall and forms a gap (see figure 6). Looking at figure 6, the base of the sleeve is substantially flat and has a diameter at least as wide as the syringe itself and therefore is sufficient to permit the syringe to stand upright. The sleeve also has an outwardly projecting flange (15) that has height which has a vertical dimension when the syringe is positioned upright.

Claims 1 and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Peterson et al (US Pat# 6,156,014).

Peterson discloses a dispenser that includes a syringe body (1) with a rimmed end (15). The device also includes a piston (8), a sleeve (14) and piston support means (12). The support means is integrally formed with the sleeve and includes a support surface (see figure 1) located radially inwardly of the inner surface of the syringe body side wall and forms a gap (see figure 1). Looking at figure 1, the base of the sleeve is substantially flat and has a diameter at least as wide as the syringe itself and therefore is sufficient to permit the syringe to stand upright. The sleeve also has an outwardly projecting flange (15) that has height which has a vertical dimension when the syringe is positioned upright. The sleeve also has an inwardly projecting portion detent (shown in figure 1)

Art Unit: 3763


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pat#s 6,004,299 and 5,387,195 discloses analogous inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Serke whose telephone number is 703-308-4846. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2192.

Catherine Serke 
June 19, 2003


BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700